IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Revision No. 108 of 1992
Date of decision : November 28, 2007

Dr. Attar Singh Sangwan

....Petitioner

versus

Banarshi Dass and another

....Respondents

Coram: Hon'ble Mr. Justice Pritam Pal

Present : Mr. Kabir Sareen, Advocate, for the petitioner

Mr. B.R. Gupta, Advocate, for respondent no. 1

Pritam Pal,J.

This revision petition by Dr. Attar Singh Sangwan (hereinafter referred to as the "sub-tenant") is directed against judgment and order dated 17.11.1990 passed by learned Rent Controller, Jhajjar, whereby he was ejected from the demised premises (hereinafter referred to as "the shop") as delineated by letters ABCD shown in the red colour of the site plan (Ex. A/1), under section 13 of the Haryana Urban (Control of Rent and Eviction) Act, 1973, (herein after referred to as the 'Act'), on the ground of sub-letting. Thereafter his appeal has also been dismissed vide impugned

judgment and order dated 19.12.1991 passed by the Appellate Authority under the Act.

Without going into any further details, suffice it to say that respondent no. 1 Banarsi Dass (since deceased) now represented by his LRs, being landlord, had filed a petition under section 13 of the Act against Dr. Attar Singh Sangwan, sub-tenant and Maman Singh son of Late Munna Lal (hereinafter referred to as the tenant) mainly on the grounds of non-payment of rent as well as sub-letting of the shop to Dr. Attar Singh Sangwan, sub-tenant. On the other hand, Maman Singh, tenant, in his written statement, admitted that earlier his father Munna Lal was the tenant of the shop from whom Dr. Attar Singh Sangwan, sub-tenant had taken on rent in the year 1968, whereas according to Dr. Attar Singh Sangwan, who has been held sub-tenant by the courts below had taken shop on rent from one Khushi Ram who is real brother of Banarsi Dass landlord. He also took the plea that Maman Singh respondent tenant is the nephew of said Khushi Ram and Banarsi Dass landlord, being their sister's son. In his reply, Dr. Attar Singh Sangwan also denied the title of Banarsi Dass qua the disputed shop.

The learned Rent Controller, on the pleadings of the parties framed the following issues:-

1. Whether respondents are liable to be evicted from the demised premises as alleged ? OPP
2. Whether there is no relationship of landlord and tenant between petitioner and respondent No. 2 ? OPR-2

3. Whether petitioner has no locus-standi to file the present petition ? OPR
4. Whether petition is not maintainable in the present form ? OPR
5. Whether petition is bad for non-joinder of necessary parties ? OPR
6. Whether petitioner and respondent no. 1 have defrauded the provisions of law as alleged in para no. 5 of the additional objections ? OPR-2
7. Relief.

After recording the evidence and hearing the learned counsel for the parties, the learned Rent Controller discussed issues Nos. 1,2 and 6 together and decided issue no. 1 in favour of the landlord whereas findings on issue Nos. 2 and 6 were returned against the tenant and sub-tenant. Findings on the remaining issues Nos. 3,4 and 5 were also returned against the tenant and sub-tenant. Ultimately it was held that, in fact, earlier Munna Lal father of Maman Singh tenant had taken the shop on rent from landlord and later-on, on 22.8.1968 vide rent note Ex. A2 Dr. Attar Singh Sangwan had further taken the said shop on rent from aforesaid Munna Lal tenant (father of Maman Singh respondent-tenant). Thus, sub-letting of the shop without the consent of landlord was proved and Dr. Attar Singh Sangwan was held to be sub-tenant. Accordingly, he was ordered to be ejected from the shop vide impugned order dated 17.11.1990 passed by learned Rent Controller. In appeal filed by sub-tenant, the findings on the crucial issues given by the Rent Controller were also upheld by the Appellate Authority. This is how, feeling aggrieved, sub-tenant has come up in this revision.

I have heard learned counsel for the parties and have also examined the entire record of this case.

The only noticeable point of argument raised on behalf of the petitioner/sub-tenant is that herein in the instant case, Maman Singh son of Munna Lal, being nephew of landlord, has not supported the stand of sub-tenant. He further submits that when the tenant is not opposing the ejectment application that would mean that there is a collusion between the landlord and tenant. Learned counsel for the petitioner further submits that rent note Ex. A/2 is also a forged document and as such, the landlord kept silent for a long time i.e. till the filing of the ejectment petition in the year 1989. In support of these contentions, he also relied upon **Gita Devi vs Parma Nand and Hari Ram**, 1987(2) Rent Control Reporter 275 and **Dr. Chaman Lal vs Shri Harmohinder Singh and anr.** 1979(1) Rent Control Reporter 183.

On the other hand, learned counsel for the respondent has repelled the aforesaid points of arguments and also relied upon **Smt. Rajbir Kaur and another vs M/s S.Chokosiri and Co.**, AIR 1988 SC 1845; **Dr. Pushap Lata Sharma vs Ramesh Kumari,** 2001(1) R.C.R. (Rent) 268; **Subhash Singh vs Haryana Pinjra Pole Gaushala, Rohtak**, 1984(1) RLR 545; **M/s Shalimar Tar Products Ltd. vs H.C.Sharma & Ors.** 1987(2) R.C.R. (Rent) 671 (SC); **M/s Ashish Enterprises through Smt. Aruna Luthra vs. M/s Kochhar Industries,** 1999(1) RCR (Rent) 590; **Kanta Sagar (Mrs.) vs. Vinod Khanna,** 2000(1) RCR (Rent) 3; **Binata Ghosh vs Amiya Dasgupta,** 1997(1) RCR (Rent) 206; **M/s Nihal Chand**

Rameshwar Dass vs Vinod Rastogi, 1994(2) RCR (Rent) 540 and **Chaudhary Ram vs Liba Sood and others**, (1998-3) PLR 191 and then contended that no interference is called for in the revision when concurrent finding of the courts below is there. He further contended that no principle of waiver or estoppel is applicable even if there is a delay in filing the ejectment application by the landlord.

I have given my thoughtful consideration to the arguments raised on behalf of learned counsel for the parties and find that in the given facts and circumstances and law laid down in the aforesaid rulings, there is no merit in any of the above submissions put-forth by learned counsel for the petitioner-sub-tenant, inasmuch as here in the instant case, learned counsel for the petitioner wants this Court to reverse the findings of the courts below simply on the basis of assumption and presumption which, in fact, cannot be inferred against the primary and documentary evidence well proved on the file. The petitioner/sub-tenant is stated to be an educated and well qualified doctor. Thus, it cannot be expected from him that he would sign a blank paper or any document without reading its contents. Here in this case, rent note Ex. A/2 written between him and Munna Lal (earlier tenant who was father of Maman Singh) has been duly proved in accordance with law before the learned Rent Controller. Not only that during the course of arguments, I have also gone through (Ex. R/1), extract of register of Deed Writer Om Parkash AW2. In his statement, he has also stated that summary of contents of the rent note (Ex. A/2) was also handed over to the petitioner/sub-tenant. It is also pertinent to mention here that petitioner

while appearing as RW5 has categorically admitted in his cross-examination that he had also received copy of Ex. R/1 from the Deed Writer. A perusal of this admitted document Ex. R/1 goes a long way to show that the same was written between the earlier tenant of the shop and the petitioner-sub-tenant wherein it is also admitted that he had agreed to pay a rent of Rs 30/- per month to the tenant. Faced with this situation, it cannot be presumed that the aforesaid documents i.e. rent deed Ex. A/2 and extract of the register of the Deed Writer Ex. R/1 are forged documents. Contrary to this, there is no permissible evidence on the file except the bald statement of the petitioner which could support his stand taken in his written statement. Moreover when findings of fact recorded by the courts below are supportable especially by the primary and documentary evidence on record, the revisional court must be reluctant to embark upon an independent re-assessment of the evidence and to supplant a conclusion of its own. Here in the instant case before me, as discussed above, evidence on record admitted and supported by the documentary evidence, the concurrent findings returned on the material issues cannot held to be perverse or improper in any manner.

Before parting with the order, it would be in the fairness of the learned counsel for the petitioner to observe that I have gone through the observations of their Lordships in the aforesaid rulings relied upon by him and find that the facts contained therein are quite variance from the facts of the case in hand as discussed above. Hence, no benefit can be derived by him in this revision petition.

In view of my fore going discussion, I find no illegality or any impropriety in the impugned judgments and orders. Hence, this revision petition is hereby dismissed.

(Pritam Pal)
November 28, 2007 **Judge**
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